

(i) Upon SBA's receipt of evidence that a small business manufacturer or processor exists in the Federal market for a waived class of products, the waiver will be terminated by the Associate Administrator for Government Contracting. This evidence may be discovered by SBA during a periodic review of existing waivers or may be brought to SBA's attention by other sources.

(ii) SBA will announce its intent to terminate a waiver for a class of products through the publication of a notice in the FEDERAL REGISTER, asking for comments regarding the proposed termination.

(iii) Unless public comment reveals that no small business manufacturer or processor in fact exists for the class of products in question, SBA will publish a final Notice of Termination in the FEDERAL REGISTER.

(b) *Individual waivers for specific solicitations.* (1) A contracting officer's request for a waiver of the Nonmanufacturer Rule for specific solicitations need not be in any particular form, but must, at a minimum, include:

(i) A definitive statement of the specific item to be waived and justification as to why the specific item is required;

(ii) The solicitation number, NAICS code, dollar amount of the procurement, and a brief statement of the procurement history;

(iii) A determination by the contracting officer that there are no known small business manufacturers or processors for the requested items (the determination must contain a narrative statement of the contracting officer's efforts to search for small business manufacturers or processors of the item and the results of those efforts, and a statement by the contracting officer that there are no known small business manufacturers for the items and that no small business manufacturer or processor can reasonably be expected to offer the required items); and

(iv) For contracts expected to exceed \$500,000, a copy of the Statement of Work.

(2) Requests should be addressed to the Associate Administrator for Government Contracting, Small Business

Administration, 409 3rd Street, SW., Washington, DC 20416.

(3) SBA will examine the contracting officer's determination and any other information it deems necessary to make an informed decision on the individual waiver request. If SBA's research verifies that no small business manufacturers or processors exist for the item, the Associate Administrator for Government Contracting will grant an individual, one-time waiver. If a small business manufacturer or processor is found for the product in question, the Associate Administrator will deny the request. Either decision represents a final decision by SBA.

[61 FR 3286, Jan. 31, 1996, as amended at 65 FR 30863, May 15, 2000]

§ 121.1205 How is a list of previously granted class waivers obtained?

A list of classes of products for which waivers of the Nonmanufacturer Rule have been granted is maintained in SBA's Web site at www.sba.gov/GC/approved.html. A list of such waivers may also be obtained by contacting the Office of Government Contracting, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, or the nearest SBA Government Contracting Area Office.

[69 FR 29208, May 21, 2004]

PART 123—DISASTER LOAN PROGRAM

Subpart A—Overview

Sec.

123.1 What do these rules cover?

123.2 What are disaster loans and disaster declarations?

123.3 How are disaster declarations made?

123.4 What is a disaster area and why is it important?

123.5 What kinds of loans are available?

123.6 What does SBA look for when considering a disaster loan applicant?

123.7 Are there restrictions on how disaster loans can be used?

123.8 Does SBA charge any fees for obtaining a disaster loan?

123.9 What happens if I don't use loan proceeds for the intended purpose?

123.10 What happens if I cannot use my insurance proceeds to make repairs?

123.11 Does SBA require collateral for any of its disaster loans?

123.12 Are books and records required?

- 123.13 What happens if my loan application is denied?
- 123.14 How does the Federal Debt Collection Procedures Act of 1990 apply?
- 123.15 What if I change my mind?
- 123.16 How are loans administered and serviced?
- 123.17 Do other Federal requirements apply?
- 123.18 Can I request an increase in the amount of a physical disaster loan?
- 123.19 May I request an increase in the amount of an economic injury loan?
- 123.20 How long do I have to request an increase in the amount of a physical disaster loan or an economic injury loan?
- 123.21 What is a mitigation measure?

Subpart B—Home Disaster Loans

- 123.100 Am I eligible to apply for a home disaster loan?
- 123.101 When am I not eligible for a home disaster loan?
- 123.102 What circumstances would justify my relocating?
- 123.103 What happens if I am forced to move from my home?
- 123.104 What interest rate will I pay on my home disaster loan?
- 123.105 How much can I borrow with a home disaster loan and what limits apply on use of funds and repayment terms?
- 123.106 What is eligible refinancing?
- 123.107 How much can I borrow for post-disaster mitigation for my home?

Subpart C—Physical Disaster Business Loans

- 123.200 Am I eligible to apply for a physical disaster business loan?
- 123.201 When am I not eligible to apply for a physical disaster business loan?
- 123.202 How much can my business borrow with a physical disaster business loan?
- 123.203 What interest rate will my business pay on a physical disaster business loan and what are the repayment terms?
- 123.204 How much can your business borrow for post-disaster mitigation?

Subpart D—Economic Injury Disaster Loans

- 123.300 Is my business eligible to apply for an economic injury disaster loan?
- 123.301 When would my business not be eligible to apply for an economic injury disaster loan?
- 123.302 What is the interest rate on an economic injury disaster loan?
- 123.303 How can my business spend my economic injury disaster loan?

Subpart E—Pre-Disaster Mitigation Loans

- 123.400 What is the Pre-Disaster Mitigation Loan Program?

- 123.401 What types of mitigating measures can your business include in an application for a pre-disaster mitigation loan?
- 123.402 Can your business include its relocation as a mitigation measure in an application for a pre-disaster mitigation loan?
- 123.403 When is your business eligible to apply for a pre-disaster mitigation loan?
- 123.404 When is your business ineligible to apply for a pre-disaster mitigation loan?
- 123.405 How much can your business borrow with a pre-disaster mitigation loan?
- 123.406 What is the interest rate on a pre-disaster mitigation loan?
- 123.407 When does your business apply for a pre-disaster mitigation loan and where does your business get the application?
- 123.408 How does your business apply for a pre-disaster mitigation loan?
- 123.409 Which pre-disaster mitigation loan requests will SBA consider for funding?
- 123.410 Which loan requests will SBA fund?
- 123.411 What if SBA determines that your business loan request meets the selection criteria of §123.409 but SBA is unable to fund it because SBA has already allocated all program funds?
- 123.412 What happens if SBA declines your business' pre-disaster loan request?

Subpart F—Military Reservist Economic Injury Disaster Loans

- 123.500 Definitions.
- 123.501 When is your business eligible to apply for a Military Reservist Economic Injury Disaster Loan (EIDL)?
- 123.502 When is your business ineligible to apply for a Military Reservist EIDL?
- 123.503 When can you apply for a Military Reservist EIDL?
- 123.504 How do you apply for a Military Reservist EIDL?
- 123.505 What if you are both an essential employee and the owner of the small business and you started active duty before applying for a Military Reservist EIDL?
- 123.506 How much can you borrow under the Military Reservist EIDL Program?
- 123.507 Under what circumstances will SBA consider waiving the \$1.5 million loan limit?
- 123.508 How can you use Military Reservist EIDL funds?
- 123.509 What can't you use Military Reservist EIDL funds for?
- 123.510 What if you don't use your Military Reservist EIDL funds as authorized?
- 123.511 How will SBA disburse Military Reservist EIDL funds?

Small Business Administration

§ 123.3

123.512 What is the interest rate on a Military Reservist EIDL?

Subpart G—Economic Injury Disaster Loans as a Result of the September 11, 2001 Terrorist Attacks

123.600 Are economic injury disaster loans under this subpart limited to the geographic areas contiguous to the declared disaster areas?

123.601 Is my business eligible to apply for an economic injury disaster loan under this subpart?

123.602 When would my business not be eligible to apply for an economic injury disaster loan under this subpart?

123.603 What is the interest rate on an economic injury disaster loan under this subpart?

123.604 How can my business spend my economic injury disaster loan under this subpart?

123.605 How long do I have to apply for a loan under this subpart?

123.606 May I request an increase in the amount of an economic injury disaster loan under this subpart?

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SOURCE: 61 FR 3304, Jan. 31, 1996, unless otherwise noted.

Subpart A—Overview

§ 123.1 What do these rules cover?

This part covers the disaster loan programs authorized under the Small Business Act, 15 U.S.C. 636(b), (c), and (f). Since SBA cannot predict the occurrence or magnitude of disasters, it reserves the right to change the rules in this part, without advance notice, by publishing interim emergency regulations in the FEDERAL REGISTER.

§ 123.2 What are disaster loans and disaster declarations?

SBA offers low interest, fixed rate loans to disaster victims, enabling them to repair or replace property damaged or destroyed in declared disasters. It also offers such loans to affected small businesses to help them recover from economic injury caused by such disasters. Disaster declarations are official notices recognizing that specific geographic areas have been damaged by floods and other acts of nature, riots, civil disorders, or industrial

accidents such as oil spills. These disasters are sudden events which cause severe physical damage, and do not include slower physical occurrences such as shoreline erosion or gradual land settling. Sudden physical events that cause substantial economic injury may be disasters even if they do not cause physical damage to a victim's property. Past examples include ocean conditions causing significant displacement (major ocean currents) or closure (toxic algae blooms) of customary fishing waters, as well as contamination of food or other products for human consumption from unforeseeable and unintended events beyond the control of the victims.

§ 123.3 How are disaster declarations made?

(a) There are four ways in which disaster declarations are issued which make SBA disaster loans possible:

(1) The President declares a Major Disaster, or declares an emergency, and authorizes Federal Assistance, including individual assistance (Assistance to Individuals and Households Program).

(2) If the President declares a Major Disaster limited to public assistance only, a private nonprofit facility which provides non-critical services under guidelines of the Federal Emergency Management Agency (FEMA) must first apply to SBA for disaster loan assistance for such non-critical services before it could seek grant assistance from FEMA.

(3) SBA makes a physical disaster declaration, based on the occurrence of at least a minimum amount of physical damage to buildings, machinery, equipment, inventory, homes and other property. Such damage usually must meet the following tests:

(i) In any county or other smaller political subdivision of a State or U.S. possession, at least 25 homes or 25 businesses, or a combination of at least 25 homes, businesses, or other eligible institutions, each sustain uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower; or

(ii) In any such political subdivision, at least three businesses each sustain